

REMARKS

The foregoing amendments to the specification and to the claims of this application provide compliance with the allowable claim set as suggested by Supervisory Patent Examiner Amy Nelson on November 7, 2003.

Applicant respectfully submits as shown in the amendments to the specification and to the claims, these corrections are needed for proper disclosure and protection of the invention and require no substantial amount of additional work on the part of the PTO. Applicant herein submits the Summary of the Invention section, Deposits section and claims have been amended in order to properly include the ATCC Accession Numbers of the hybrid X1139Y and the inbred parents GE565937 and GE502199. The changes do not add new matter as there is literal support for the minor changes on page 7 in the originally filed specification. The Applicant provides assurance that:

- a) during the pendency of this application access to the invention will be afforded to the Commissioner upon request;
- b) all restrictions upon availability to the public will be irrevocably removed upon granting of the patent;
- c) the deposit will be maintained in a public depository for a period of thirty years, or five years after the last request for the enforceable life of the patent, whichever is longer;
- d) a test of the viability of the biological material at the time of deposit will be conducted (see 37 C.F.R. § 1.807); and
- e) the deposit will be replaced if it should ever become inviable.

Therefore, Applicant submits at least 2500 seeds of hybrid maize plant X1139Y and the inbred parents GE565937 and GE502199 have been deposited with the ATCC. Copies of the ATCC deposit receipts are included in this 37 C.F.R. § 1.312 Amendment After Allowance. In addition, Applicant submits that 32D12 is the variety name for X1139Y and that PH21T is the variety name for inbred parent GE502199 therefore the ATCC deposit receipts are correct and do not add new matter. Applicant respectfully requests consideration of the aforementioned remarks.

Furthermore, the Applicant submits the issue fee is being paid separately in the subsequent week.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lila A. T. Akrad". The signature is fluid and cursive, with a large initial "L" and a stylized "A".

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